

## PART I

A. Area of Coverage: Small municipal separate storm sewer systems (MS4s) located within

1. Commonwealth of Massachusetts;
2. State of New Hampshire;
3. Indian Country lands within the States of Connecticut, Massachusetts, and Rhode Island; and
4. Federal Facilities within the State of Vermont.

B. Eligibility criteria:

1. This permit authorizes the discharge of storm water from small MS4s defined at 40 CFR §122.26(b)(16). This includes small MS4s designated under 40 CFR §122.32(a)(1) and 40 CFR §122.32(a)(2). The permittee is authorized to discharge under this permit if:

- (a). The permittee is the operator of a small MS4 within the permit areas described in Part I.A;
- (b). The permittee is not a large or medium MS4 defined in 40 CFR §§122.26(b)(4) or (7);
- (c). The municipality is located fully or partially in an urbanized area as determined by the latest Decennial Census by the Bureau of Census; and
- (d). The permittee submits a Notice of Intent in accordance with Part I.E. of this permit and obtains written authorization from EPA.

Small municipal separate storm sewer system means all separate storm sewers that are:

- (a) owned or operated by the United States, a State, city town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity and Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States.
- (b) not defined as large or medium municipal separate storm sewer systems pursuant to 40 CFR §122.26(b)(4) and (b)(7) or designated under 40 CFR §122.26(a)(1)(v).
- (c) This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospitals or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.

2. The following storm water discharges are not authorized by this permit:

- (a) Discharges that are mixed with sources of non-storm water unless such non-storm water discharges are:
    - i. In compliance with a separate NPDES permit, or
    - ii. Determined by EPA not to be a substantial contributor of pollutants to waters of the U.S.
  - (b) Storm water discharges associated with industrial activity as defined in 40 CFR §122.26(b)(14)(i)-(ix) and (xi).
  - (c) Storm water discharges associated with construction activity as defined in 40 CFR §122.26(b)(14)(x) or 40 CFR §122.26(b)(15).
  - (d) Storm water discharges currently covered under another permit, including discharges covered under other regionally issued general permits.
  - (e) Discharges or discharge related activities that may adversely affect any species that are listed as endangered or threatened under the Endangered Species Act (ESA) or result in the adverse modification or destruction of habitat that is designated as critical under the ESA.
- i. Coverage under this permit is available only if the storm water discharges, allowable non-storm

water discharges, and discharge related activities do not adversely affect any species that are listed as endangered or threatened ("listed") under the ESA or result in the adverse modification or destruction of habitat that is designated as critical under the ESA ("critical habitat"). Submission of a signed NOI will be deemed to constitute certification of eligibility.

ii. "Discharge related activities" include: activities which cause, contribute to, or result in storm water point source pollutant discharges; and measures to control storm water discharges, including the siting, construction and operation of best management practices (BMPs) to control, reduce or prevent storm water pollution.

iii. In order to demonstrate eligibility, the permittee must use the guidance in Addendum A and the most recent Endangered and Threatened Species County-Species List available from EPA. Eligibility must be determined prior to submission of the NOI. The most current list is available at: <http://www.epa.gov/npdes/>. The permittee must meet one or more of the criteria described below for the entire term of the permit. The information used to determine eligibility must be maintained as part of the Storm Water Management Program.

- Criterion A: No endangered or threatened species or critical habitat are in proximity to the MS4 or the points where authorized discharges reach the receiving waters; or

- Criterion B: In the course of a separate federal action involving the MS4, formal or informal consultation with the U.S. Fish and Wildlife Service (FWS) and/or the National Marine Fisheries Service (NMFS) under Section 7 of the ESA has been concluded and that consultation:

- Addressed the effects of the MS4 storm water discharges, allowable non-storm water discharges, and discharge related activities on listed species and critical habitat; and

- The consultation resulted in either a no jeopardy opinion or a written concurrence by FWS and/or NMFS on a finding that the storm water discharges, allowable non-storm water discharges, and discharge related activities are not likely to adversely affect listed species or critical habitat; or

- Criterion C: The activities are authorized under Section 10 of the ESA and that authorization addresses the effects of the storm water discharges, allowable non-storm water discharges, and discharge related activities on listed species and critical habitat; or

- Criterion D: Using the best scientific and commercial data available, the effects of the storm water discharges, allowable non-storm water discharges, and discharge related activities on listed species and critical habitat have been evaluated. Based on those evaluations, a determination is made by the permittee and affirmed after review by EPA that the storm water discharges, allowable non-storm water discharges, and discharge related activities will not affect any federally threatened or endangered species or designated critical habitat.

- Criterion E: The storm water discharges, allowable non-storm water discharges, and discharge related activities were already addressed in another operator's certification of eligibility which includes the MS4 activities. If certification is under this criteria, the permittee agrees to comply with any measures or controls upon which the other operator's certification was based.

iv. The permitting authority may require any permittee or applicant to provide documentation of the determination of eligibility for this permit where the EPA or the FWS and/or NMFS determines that there is a potential impact on listed species or critical habitat.

v. A discharge is not authorized if the discharge or discharge related activities cause a prohibited "take" of endangered or threatened species (as defined under Section 3 of the ESA and 50 CFR 17.3), unless such actions are authorized by FWS or NMFS under sections 7 or 10 of the ESA.

vi. Discharges are not authorized where the discharge or discharge related activity are likely to jeopardize the continued existence of any species that are listed as endangered or threatened under the ESA or result in the adverse modification or destruction of habitat that is designated as critical under the ESA.

vii. Operators who conduct informal consultation to meet the eligibility requirements of Criterion



B are automatically designated as non-Federal representatives under this permit. See 50 CFR §402.08. Operators who choose to conduct informal consultation as a non-Federal representative must notify EPA and the appropriate service office in writing of that decision.

(f) Discharges whose direct or indirect impacts may adversely affect any Essential Fish Habitat.

(g) Discharges, or implementation of a storm water management program, which adversely effects properties listed or eligible to be listed on the National Register of Historic Places. The permittee must determine eligibility prior to submission of the Notice of Intent. The permittee should follow the guidance detailed in Addendum B. Discharges may be eligible for coverage under this permit if the permittee is in compliance with requirements of the National Historic Preservation Act and has coordinated any necessary activities to avoid or minimize impacts. These requirements must be coordinated with the State Historic Preservation Officer. Information used to determine eligibility must be maintained as part of the Storm Water Management Program.

(h) Discharges to territorial seas, the contiguous zone, and the oceans unless such discharges are in compliance with the ocean discharge criteria of 40 CFR 125 subpart M.

(i) Discharges prohibited under 40 CFR 122.4. This includes discharges not in compliance with the state's antidegradation policy.

(j) Discharges mixed with non-storm water except those discharges which are in compliance with another NPDES permit or are an allowable non-storm water discharge as discussed in Part I.F.

(k) Discharges that would cause or contribute to instream exceedance of water quality standards. The storm water management program must include a description of the BMPs that will be used to ensure that this will not occur. EPA, MA DEP, or NH DES may require corrective action or an application for an individual permit or alternative general permit if an MS4 is determined to cause an instream exceedance of water quality standards.

(l) Discharges of any pollutant into any water for which a Total Maximum Daily Load (TMDL) has been established or approved by the EPA unless the discharge is consistent with the TMDL. This eligibility condition applies at the time of submission of the NOI. If conditions change after submission of the NOI, coverage may continue provided the applicable requirements of Part 1.C. are met. In order to remain eligible for this permit, any limitations, conditions and requirements applicable to discharges authorized by this permit, must be incorporated into the storm water management program. This may include monitoring and reporting. Discharges not eligible for this permit, must apply for an individual or alternative NPDES general permit.

C. Discharges to Water Quality Impaired Waters

1. The permittee must determine whether storm water discharges from any part of the MS4 contribute, either directly or indirectly, to a 303(d) listed water body.
2. The storm water management program must include a section describing how the program will control the discharge of the pollutants of concern and ensure that the discharges will not cause an instream exceedance of the water quality standards. This discussion must specifically identify control measures and BMPs that will collectively control the discharge of the pollutant(s) of concern. Pollutant(s) of concern refer to the pollutant identified as causing the impairment.

D. Total Maximum Daily Load Allocations

If a TMDL has been approved for any water body into which the MS4 discharges, the permittee must:

1. Determine whether the approved TMDL is for a pollutant likely to be found in storm water discharges from the MS4.

2. Determine whether the TMDL includes a pollutant waste load allocation (WLA), BMP recommendations or other performance requirements for storm water discharges. This storm water WLA may be expressed in the TMDL as a gross allotment for the impaired water body. Or, provided no specific WLA for the MS4 exists, determine if a Performance Agreement or Memorandum of Understanding has been established between the MS4, EPA, and MA DEP or NH DES which modifies the BMPs or performance standards of the TMDL. Such Memoranda are posted on the TMDL websites. The Massachusetts site is: <http://www.state.ma.us/dep/brp/wm/tmdl.htm> The New Hampshire site is: <http://www.des.state.nh.us/wmb/TMDL>

3. If the MS4 is required to implement storm water waste load allocation provisions of the TMDL, the permittee must assess whether the WLA is being met through implementation of existing storm water control measures or if additional control measures are necessary. The permittee's assessment of whether the WLA is being met is expected to focus on the adequacy of the permittee's storm water controls (implementation and maintenance), not on the response of the receiving water.

4. Highlight in the storm water management program and annual reports all control measures currently being implemented or planned to be implemented to control pollutants of concern identified in approved TMDLs. Also include a schedule of implementation for all planned controls. Document the assessment which demonstrates that the WLA will be met including any calculations, maintenance log books, or other appropriate controls.

E. Obtaining Coverage

1. Small MS4s seeking coverage under this permit, must submit a Notice of Intent which contains the following information:

- (a). Name of person responsible for overall coordination of the storm water management program, mailing address and phone number
- (b). Name of municipality and state. For municipalities seeking coverage under Part V. of this permit, only identify the name of the agency, the city or town, and the state in which it is located.
- (c). Identify the legal status of the operator of the MS4 as either, Federal, State, Tribal, county, or other Public Entity. If the municipality is a city or town, indicate if there are other MS4s within its boundaries such as state highways, universities, prisons.
- (d). Identify the names of all known waters that receive a discharge from the MS4. If known, indicate the number of outfalls to each water.
- (e). Using the guidance in Addendum A, describe how the eligibility criteria for listed species and critical habitat have been met.
- (f). Using the guidance in Addendum B describe how the requirements to protect historic properties have been met.
- (g). Identify best management practices for each minimum control measure described in Part II B (1-6); Part III B(1-6); Part IV. B(1-6) or Part V.B(1-6), depending upon the type of MS4.
- (h). Identify measurable goals for each best management practice described in paragraph (g) above including implementation time frames and contact person..
- (i). The NOI must be signed by an appropriate official (see Part VI. G. of this permit). The NOI must contain the following certification:

*I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, I certify that the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false*



*information, including the possibility of fine and imprisonment for knowing violations.*

Print the name of the appropriate official, followed by signature, and date.

Municipalities in Massachusetts must use the form designated by the Massachusetts Department of Environmental Protection (MA DEP). The form is available at <http://www.state.ma.us/dep/brp/stormwtr/strmfms.htm> or by contacting MA DEP at 508/792-7470. The permit code for the form is BRP WM 08 A EPA does not require the use of this form, but will accept information submitted on this form. All signatures must be originals.

Municipalities in New Hampshire should use the form developed by the New Hampshire Department of Environmental Services. The form is available at: <http://www.des.state.nh.us/StormWater/>. EPA does not require the use of this form, but will accept information submitted on this form. All signatures must be originals.

2. The Notice of Intent must be submitted by March 10, 2003, if designated under 40 CFR 122.32(a)(1)-those MS4s located fully or partially in an urbanized area; or within 180 days of notice, if designated under 40 CFR 122.32(a)(2), unless granted a longer period of time by EPA;

3. Submission of Notice of Intent

(a) All permittees must submit the Notice of Intent to EPA-Region I at the following address:  
United States Environmental Protection Agency  
Municipal Assistance Unit (CMU)  
One Congress Street – Suite 1100  
Boston, Massachusetts 02114-2023

(b) MS4s located in Massachusetts, subject to Part II, Part IV, or Part V, except Indian lands, must also submit a copy of the NOI to the MA DEP at the following address:  
Massachusetts Department of Environmental Protection  
Division of Watershed Management  
627 Main Street  
Worcester, Massachusetts 01608

The appropriate fee must accompany the submission to MA DEP. The application fee is \$60.00. A fee exemption applies to any Massachusetts city, town or state agency. The fee does apply to Massachusetts state authorities.

(c) MS4s located in New Hampshire subject to Part III, Part IV or Part V, must also submit a copy of the NOI to the New Hampshire Department of Environmental Services (NH DES) at the following address:  
New Hampshire Department Environmental Services  
Water Division  
Wastewater Engineering Bureau  
P.O. Box 95  
Concord, New Hampshire 03302-0095

New Hampshire may also adopt this permit as a state permit pursuant to RSA 485-A:13.I.(a).

4. Effective date of coverage. The authorization to discharge begins on the date of receipt of EPA's written authorization. The initial written receipt will detail the completeness of the submission. The permittee may be contacted by either EPA or MA DEP/NHDES at a later date requesting additional or updated information concerning the storm water management program. The initial response will not provide detailed comments on the submission.

5. A municipality is not prohibited from submitting a Notice of Intent after the dates provided in paragraph E.2. However, if a late NOI is submitted, authorization is only for discharges that occur after permit coverage is granted. The permitting authority reserves the right to take appropriate enforcement actions for any unpermitted discharges.

F. Allowable Non-Storm Water Discharges

The following non-storm water discharges are authorized provided it has been determined by the permittee that they are not significant contributors of pollutants to the MS4. If these discharges are identified as significant contributors to the MS4, they must be addressed in the Illicit Discharge Detection and Elimination minimum control measure described in Parts II, III, IV and V.

1. water line flushing,
2. landscape irrigation,
3. diverted stream flows,
4. rising ground waters,
5. uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)),
6. uncontaminated pumped ground water,
7. discharge from potable water sources,
8. foundation drains,
9. air conditioning condensation,
10. irrigation water, springs,
11. water from crawl space pumps,
12. footing drains,
13. lawn watering,
14. individual resident car washing,
15. flows from riparian habitats and wetlands,
16. dechlorinated swimming pool discharges,
17. street wash water, and
18. Residential building wash waters, without detergents.

Discharges or flows from fire fighting activities occur during emergency situations. The permittee is not expected to evaluate fire fighting discharges with regard to pollutant contributions. Therefore, these discharges are authorized as allowable non-storm water discharges, unless identified, by EPA, as significant sources of pollutants to Waters of the U.S..



**PART II**  
**MASSACHUSETTS SMALL MS4 STORM WATER MANAGEMENT PROGRAM**

**A. Storm Water Management Program**

The permittee must develop, implement and enforce a program to reduce the discharge of pollutants from the MS4 to the maximum extent practicable; protect water quality, and satisfy the water quality requirements of the Clean Water Act and Massachusetts Water Quality Standards.

1. The permittee must develop a storm water management program implementing the minimum measures described in Paragraph II.B.

2. All elements of the storm water management program must be implemented by the expiration date of this permit.

3. Implementation of one or more of the minimum measures may be shared with another entity, or the entity may fully implement the measure(s). When another entity fully implements a minimum control measure for the permittee, the following applies:

- (a.) the other entity, in fact, implements the control measure;
- (b.) the particular control measure, or component of that measure is at least as stringent as the corresponding permit requirement.
- (c.) The other entity agrees to implement the control measure on the permittee's behalf. A legally binding written acceptance of this obligation is expected. This obligation must be maintained as part of the storm water management program. If the other entity agrees to report on the minimum measure, the permittee must supply the other entity with the reporting requirements contained in this permit under Part II.E.
- (d.) The permittee remains responsible for permit compliance and implementation of the minimum measure if the other entity fails to do it.

4. Permittee may use the following state program to implement some of the requirements of Part II.B.4 and Part II.B.5: The Massachusetts Department of Environmental Protection, Wetland Protection Act (MGL Chapter 131, Section 40) Storm Water Management Policy

(a) Standard 8 of the Policy may be used for the minimum control measure regarding construction site storm water runoff control, Part II.B.4(c). Standards 2, 3, 4, and 7 of the Policy may be used for the minimum control measure regarding post construction storm water management in development and redevelopment, Part II.B.5. The permittee may not apply this criterion outside of the jurisdiction of the Wetlands Protection Act unless the municipality has specifically provided for such in local by-laws.

(b) Additional information available at: <http://www.state.ma.us/dep/brp/stormwtr/stormpub.htm>

5. For each minimum measure, the permittee must:

- (a.) identify the person(s) or department responsible for the measure;
- (b.) identify all Best Management Practices (BMPs) for the measure;
- (c.) identify measurable goals for each BMP. Identify time lines and milestones for implementation.

6. EPA's BMP menu found at <http://www.epa.gov/npdes/menuofbmps/menu.htm> and EPA's guidance on measurable goals, found at <http://www.epa.gov/npdes/stormwater/measurablegoals/index.htm>, may be used in the development of the storm water management program.

B. Minimum Control Measures

1. Public education and outreach. The permittee must implement a public education program to distribute educational material to the community. The public education program must provide information concerning the impact of storm water discharges on water bodies. It must address steps and/or activities that the public can take to reduce the pollutants in storm water runoff.

The following should be included in the education and outreach efforts:

- (a.) information regarding both industrial and residential activities including illegal dumping into storm drains.
- (b.) coordination with local groups (i.e. watershed associations, or schools)
- (c.) materials for outreach/education may include, but are not limited to, pamphlets; fact sheets; brochures; public service announcements; storm drain stenciling and newspaper advertisements.
- (d.) topics may include, but are not limited to, litter disposal, pet waste, household hazardous waste disposal, proper use of fertilizer and pesticides, and effects of impervious areas on water bodies. (This list is intended to provide examples, the permittee is encouraged to use a variety of activities for public education.)

2. Public involvement and participation. All public involvement activities must comply with state public notice requirements at MGL Chapter 39 Section 23B and local public notice requirements.

- (a.) The permittee must provide opportunity for the public to participate in the implementation and review of the storm water management program.
- (b.) Activities may also include volunteer stream monitoring or formation of a storm water management committee. (These are examples of public involvement activities, the permittee is encouraged to use a wide range of activities to maximize public involvement.)

3. Illicit discharge detection and elimination. The permittee must develop, implement and enforce a program to detect and eliminate illicit discharges. An illicit discharge is any discharge to a municipal separate storm sewer that is not composed entirely of storm water. Exceptions are discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal sewer system), allowable non storm water discharges described at Part I.F. and discharges resulting from fire fighting activities.

(a.) If not already existing, the permittee must develop a storm sewer system map. At a minimum, the map must show the location of all outfalls and the names of all waters that receive discharges from those outfalls. Additional elements may be included on the map, such as, location of catch basins, location of manholes, and location of pipes within the system. Initial mapping should be based on all existing information available to the permittee including city records and drainage maps. Field surveys may be necessary to verify existing records and locate all outfalls.

(b.) To the extent allowable under state or local law, the permittee must effectively prohibit, through an ordinance or other regulatory mechanism, non storm water discharges into the system and implement appropriate enforcement procedures and actions. If a regulatory mechanism does not exist, development and adoption of such a mechanism must be included as part of the storm water management program.

(c.) The permittee must develop and implement a plan to detect and address non -storm water discharges, including illegal dumping, into the system.

The illicit discharge plan must contain the following elements:

- i. Procedures to identify priority areas. This includes areas suspected of having illicit discharges, for example: older areas of the city, areas of high public complaints and areas of high recreational value or high environmental value such as beaches and drinking water sources.
- ii. Procedures for locating illicit discharges (i.e. visual screening of outfalls for dry weather discharges, dye or smoke testing)
- iii. Procedures for locating the source of the discharge and procedures for the removal of the source.



iv. Procedures for documenting actions and evaluating impacts on the storm sewer system subsequent to the removal.

(d.) The permittee must inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper waste disposal.

(e.) The non-storm water discharges listed in Part I.F. must be addressed if they are identified as being significant contributors of pollutants to the small MS4.

4. Construction site storm water runoff control. The permittee must develop, implement, and enforce a program to reduce pollutants in any storm water runoff to the MS4 from construction activities that result in a land disturbance of greater than or equal to one acre. The permittee must include disturbances less than one acre if part of a larger common plan.

The permittee does not need to apply its construction program provisions to projects that receive a waiver from EPA under the provisions of 40 CFR§122.26(b)(15)(i).

At a minimum, the program must include:

(a.) To the extent allowable under state or local law, an ordinance or other regulatory mechanism to require sediment and erosion control at construction sites. If such an ordinance does not exist, development and adoption of an ordinance must be part of the program.

(b.) Sanctions to ensure compliance with the program. To the extent allowable under state or local law sanctions may include both monetary or non-monetary penalties.

(c.) Requirements for construction site operators to implement a sediment and erosion control program which includes BMPs that are appropriate for the conditions at the construction site, including efforts to minimize the area of the land disturbance.

(d.) Requirements for the control of wastes, including but not limited to, discarded building materials, concrete truck wash out, chemicals, litter, and sanitary wastes.

(e.) Procedures for site plan review including procedures which incorporate consideration of potential water quality impacts. The site plan review should include procedures for preconstruction review.

(f.) Procedures for receipt and consideration of information submitted by the public.

(g.) Procedures for inspections and enforcement of control measures at construction sites.

5. Post construction storm water management in new development and redevelopment.

The permittee must develop, implement and enforce a program to address storm water runoff from new development and redevelopment projects that disturb greater than one acre and discharge into the municipal system.

The program must include projects less than one acre if the project is part of a larger common plan of development which disturbs greater than one acre.

The post construction program must include:

- (a.) To the extent allowable under state or local law, an ordinance or other regulatory mechanism to address post construction runoff from new development and redevelopment. If such an ordinance does not exist, development and adoption of an ordinance must be part of the program.
- (b.) Procedures to ensure adequate long term operation and maintenance of best management practices.
- (c.) Procedure to ensure that any controls that are put in place will prevent or minimize impacts to water quality.

6. Pollution prevention and good housekeeping in municipal operations.

The permittee must

- (a.) Develop and implement a program with a goal of preventing and/or reducing pollutant runoff from municipal operations. The program must include an employee training component.
- (b.) Include, at a minimum, maintenance activities for the following : parks and open space (areas such as public golf course and playing fields); fleet maintenance, building maintenance; new construction and land disturbance; and road way drainage system maintenance and storm water system maintenance.
- (c.) Develop schedules for municipal maintenance activities described in paragraph (b) above.
- (d.) Develop inspection procedures and schedules for long term structural controls.

7. Cooperation between interconnected municipal separate storm sewer systems is encouraged. The permittee should identify interconnections within the system. The permittee should attempt to work cooperatively with an interconnected municipality in instances of discharges impacting a system.

8. The permittee must evaluate physical conditions, site design, and best management practices to promote groundwater recharge and infiltration where feasible in the implementation of the control measures described above. During the implementation of the storm water management program, the permittee must address recharge and infiltration for the minimum control measures, as well as any reasons for electing not to implement recharge and infiltration. Loss of annual recharge to ground water should be minimized through the use of infiltration measures to the maximum extent practicable. Permittees in areas identified as "high" or "medium" in the most recent Massachusetts Water Resources Commission's *Stressed Basins in Massachusetts* report in effect at the time the permittee submits a Notice of Intent and accompanying storm water management program, must minimize the loss of annual recharge to ground water from new development and redevelopment, including but not limited to drainage improvements done in conjunction with road improvements, street drain improvement projects and flood mitigation projects, consistent with Standard 3 of the Storm Water Management Policy in areas both within and outside of the jurisdiction of the Massachusetts Wetlands Protection Act.

(See [http://www.state.ma.us/dem/programs/intbasin/stressed\\_basin](http://www.state.ma.us/dem/programs/intbasin/stressed_basin))

9. MS4s which discharge to coastal waters with public swimming beaches should consider these waters a priority in implementation of the storm water management program. Refer to Part IX , State 401 Certification Requirements, for additional requirements.



C. Public Drinking Water Supply Requirements

1. MS4s which discharge to public drinking water sources and their protection areas (Class A and B surface waters used for drinking water and wellhead protection areas) should consider these waters a priority in implementation of the storm water management program.
2. Discharges to public drinking water supply sources and their protection areas (Zones I, II, Wellhead Protection Areas, Zone A, B, and C as defined in 310 CMR 22.00) should provide pretreatment and spill control capabilities to the extent feasible.
3. Direct discharges to Class A waters and Zone I wellhead protection areas (as defined in 310 CMR 22.02) should be avoided to the extent feasible.

D. Program Evaluation

1. The permittee must annually evaluate the compliance of the storm water management program with the conditions of this permit.
2. The permittee must evaluate the appropriateness of the selected BMPs in efforts towards achieving the defined measurable goals. The storm water management program may be changed in accordance with the following provisions:
  - (a). Changes adding (but not subtracting or replacing) components, controls or requirements to the SWMP may be made at any time upon written notification to EPA and MA DEP
  - (b). Changes replacing an ineffective or infeasible BMP specifically identified in the SWMP with an alternative BMP may be requested in writing to EPA and MA DEP at any time. Unless denied, changes proposed in accordance with the criteria below shall be deemed approved and may be implemented 60 days from submittal of the request. If the request is denied, EPA or MA DEP, as applicable, will send you a written explanation of the denial.
  - (c). Modification requests, must include the following information:
    - i. an analysis of why the BMP is ineffective or infeasible (including cost prohibitive)
    - ii. expectations on the effectiveness of the replacement BMP, and
    - iii. an analysis of why the replacement BMP is expected to achieve the goals of the BMP to be replaced.
    - iv. Change requests or notifications must be in writing and signed in accordance with the signatory requirements of Part VI.
3. EPA or MA DEP may require changes to the SWMP as needed to:
  - (a). Address impacts on receiving water quality caused or contributed to by discharges from the MS4;
  - (b). To include more stringent requirements necessary to comply with new Federal statutory or regulatory requirement; or
  - (c). To include such other conditions deemed necessary to comply with the goals and requirements of the CWA.
  - (d). Any changes requested by EPA or MA DEP will be in writing and will set forth the schedule for the permittee to develop the changes and offer the opportunity to propose alternative program changes to meet the objective of the requested modification.

E. Record Keeping

1. All records required by this permit must be kept for a period of at least five years. Records include information used in the development of the storm water management program, any monitoring, copies of reports, and all data used in the development of the notice of intent.
2. Records need to be submitted only when specifically requested by the permitting authority.
3. The permittee must make the records relating to this permit available to the public, including the storm water management program. The public may view the records during normal business hours. The permittee may charge a reasonable fee for copying requests.

F. Reporting

1. The permittee must submit an annual report. The initial report is due one year from the effective date of this permit and annually thereafter. The reports should contain information regarding activities of the previous calendar year. Reports should be submitted to both EPA and MA DEP at the following addresses:

United States Environmental Protection Agency  
Water Technical Unit  
P.O. Box 8127  
Boston, MA 02114

and

Massachusetts Department of Environmental Protection  
Division of Watershed Management  
627 Main Street  
Worcester, Massachusetts 01608

2. The following information must be contained in the annual report:
  - (a) A self assessment review of compliance with the permit conditions.
  - (b) An assessment of the appropriateness of the selected BMPs.
  - (c) An assessment of the progress towards achieving the measurable goals.
  - (d) A summary of results of any information that has been collected and analyzed. This includes any type of data.
  - (e) A discussion of activities for the next reporting cycle.
  - (f) A discussion of any changes in identified BMPs or measurable goals.
  - (g) Reference any reliance on another entity for achieving any measurable goal.



G. State Permit Conditions

This permit is issued jointly by the U.S. Environmental Protection Agency and the Massachusetts Department of Environmental Protection under federal and state law, respectively. As such, all the terms and conditions of this permit are hereby incorporated into and constitute a discharge permit issued by the Commissioner of the MA DEP pursuant to M.G.L. Chap. 21, §43 and under regulations found at 314 CMR 3.00. Regulations found at 314 CMR 3.19 (Standard Permit Conditions) are incorporated into this permit by reference.

To the extent allowable by their respective laws and regulations, each agency shall have the independent right to enforce the terms and conditions of this permit. Any modification, suspension or revocation of this permit shall be effective only with respect to the agency taking such action, and shall not affect the validity or status of this permit as issued by the other agency, unless and until each agency has concurred in writing with such modification, suspension or revocation. In the event any portion of this permit is declared invalid, illegal or otherwise issued in violation of the state law such permit shall remain in force and effect under federal law as a NPDES permit issued by the U.S. Environmental Protection Agency. In the event this permit is declared invalid, illegal or otherwise issued in violation of federal law, this permit shall remain in full force and effect under state law as a permit issued by the Commonwealth of Massachusetts.

**PART III**  
**NEW HAMPSHIRE SMALL MS4**  
**STORM WATER MANAGEMENT PROGRAM**  
(This part also applies to Indian Lands in MA, CT, and RI.)

**A. Storm Water Management Program**

The permittee must develop, implement and enforce a program to reduce the discharge of pollutants from the MS4 to the maximum extent practicable; protect water quality, and satisfy the water quality requirements of the Clean Water Act and state water quality standards

1. The permittee must develop a storm water management program implementing the minimum measures described in Paragraph III.B.
2. All elements of the storm water management program must be implemented by the expiration date of this permit.
3. Implementation of one or more of the minimum measures may be shared with another entity, or the entity may fully implement the measure. When another entity fully implements a minimum control measure for the permittee, the following applies:
  - (a.) the other entity, in fact, implements the control measure;
  - (b.) the particular control measure, or component of that measure is at least as stringent as the corresponding permit requirement.
  - (c.) The other entity agrees to implement the control measure on the permittee behalf. A legally binding written acceptance of this obligation is expected. This obligation must be maintained as part of the storm water management program. If the other entity agrees to report on the minimum measure, the permittee must supply the other entity with the reporting requirements contained in this permit under Part III.E.
  - (d) The permittee remains responsible for permit compliance and implementation of the minimum measure if the other entity fails to do it.
4. For each minimum measure, the permittee must:
  - (a.) identify the person(s) or department responsible for the measure;
  - (b.) identify Best Management Practices (BMPs) for the measure;
  - (c.) identify measurable goals for each BMP. Identify time lines and milestones for implementation.
5. EPA's BMP menu found at:  
<http://www.epa.gov/npdes/menuofbmeps/menu.htm> and EPA's guidance on measurable goals, found at:  
<http://www.epa.gov/npdes/stormwater/measurablegoals/index.htm>, may be used in the development of the storm water management program.

**B. Minimum Control Measures**

1. Public education and outreach. The permittee must implement a public education program to distribute educational material to the community. The public education program must provide information concerning the impact of storm water discharges on water bodies. It must address steps and/or activities that the public can take to reduce the pollutants in storm water runoff.

The following should be included in education and outreach efforts:

- (a.) information regarding industrial, commercial, and residential activities including illegal dumping into storm drains.
- (b.) coordinate activities with local groups (i.e. watershed associations, or schools)



- (c.) materials for outreach/education may include, but are not limited to, pamphlets; fact sheets; brochures; public service announcements; storm drain stenciling and newspaper advertisements.
- (d.) topics may include, but are not limited to, litter disposal, pet waste, household hazardous waste disposal, proper use of fertilizer and pesticides. (This list is intended to provide examples of education topics, the permittee is encouraged to use a variety of methods for public education.)

2. Public Involvement and participation. All public involvement activities in the State of New Hampshire must comply with state public notice requirements, RSA-91A. Activities must also comply with local and Tribal requirements, as appropriate.

- (a.) The permittee must provide opportunity for the public to participate in the development, implementation and review of the storm water management program.
- (b.) Activities may also include volunteer stream monitoring or formation of a storm water management committee. (These are examples of public involvement activities, the permittee is encouraged to use a wide range of activities to maximize public involvement.)

3. Illicit discharge detection and elimination. The permittee must develop, implement and enforce a program to detect and eliminate illicit discharges. An illicit discharge is any discharge to a municipal separate storm sewer that is not composed entirely of storm water. Exceptions are discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal sewer system), allowable non storm water discharges described at Part I.F. and discharges resulting from fire fighting activities.

- (a.) If not already existing, the permittee must develop a storm sewer system map. At a minimum, the map must show the location of all outfalls and the names of all waters that receive discharges from those outfalls. Additional elements may be included on the map, such as, location of catch basins, location of manholes, and location of pipes within the system. Initial mapping should be based on all existing information available to the permittee including city records and drainage maps. Field surveys may be necessary to verify existing records and locate all outfalls.
- (b.) To the extent allowable under state, Tribal or local law, the permittee must effectively prohibit, through an ordinance or other regulatory mechanism, non-storm water discharges into the system and implement appropriate enforcement procedures and actions. If a regulatory mechanism does not exist, development and adoption of such a mechanism must be included as part of the storm water management program.
- (c.) The permittee must develop and implement a plan to detect and address non storm water discharges, including illegal dumping, into the system.

The illicit discharge plan must contain the following elements:

- i. Procedures to identify priority areas. This includes areas suspected of having illicit discharges, for example: older areas of the city, areas of high public complaints and areas of high recreational value or high environmental value such as beaches and drinking water sources.
  - ii. Procedures for locating illicit discharges (i.e. visual screening of outfalls for dry weather discharges, dye or smoke testing)
  - iii. Procedures for locating the source of the discharge and procedures for the removal of the source.
  - iv. Procedures for documenting actions and evaluating impact on the storm sewer system subsequent to the removal.
- (d.) The permittee must inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper waste disposal.

(e.) The non-storm water discharges listed in Part I.F. must be addressed if they are identified as being significant contributors of pollutants to the MS4.

4. Construction site storm water runoff control. The permittee must develop, implement, and enforce a program to reduce pollutants in any storm water runoff to the MS4 from construction activities that result in a land disturbance of greater than or equal to one acre. The permittee must include disturbances less than one acre if part of a larger common plan.

The permittee does not need to apply its construction program provisions to projects that receive a waiver from EPA under the provisions of 40 CFR§122.26(b)(15)(i).

At a minimum, the program must include:

- (a.) To the extent allowable under state, Tribal or local law, an ordinance or other regulatory mechanism to require sediment and erosion control at construction sites. If such an ordinance does not exist, development and adoption of an ordinance must be part of the program.
- (b.) Sanctions to ensure compliance with the program. To the extent allowable under state, Tribal or local laws, sanctions may include both monetary or non-monetary penalties.
- (c.) Requirements for construction site operators to implement a sediment and erosion control program which includes BMPs that are appropriate for the conditions at the construction site.
- (d.) Requirements for the control of wastes, including but not limited to, discarded building materials, concrete truck wash out, chemicals, litter, and sanitary wastes.
- (e.) Procedures for site plan review including procedures which incorporate consideration of potential water quality impacts. The site plan review should include procedures for preconstruction review.
- (f.) Procedures for receipt and consideration of information submitted by the public.
- (g.) Procedures for inspections and enforcement of control measures at construction sites.

5. Post construction storm water management in new development and redevelopment.

The permittee must develop, implement and enforce a program to address storm water runoff from new development and redevelopment projects that disturb greater than one acre and discharge into the municipal system.

The program must include projects less than one acre if the project is part of a larger common plan of development.

The post construction program must include:

- (a.) To the extent allowable under state, Tribal or local law, an ordinance or other regulatory mechanism to address post construction runoff from new development and redevelopment. If such an ordinance does not exist, development and adoption of an ordinance must be part of the program.
- (b.) Procedures to ensure adequate long term operation and maintenance of best management practices.
- (c.) Procedure to ensure that any controls that are in place will prevent or minimize impacts to



water quality.

6. Pollution prevention and good house keeping in municipal operations.

The permittee must

(a.) Develop and implement a program with a goal of preventing and/or reducing pollutant runoff from municipal operations. The program must include an employee training component.

(b.) Include, at a minimum, maintenance activities for the following : parks and open space (area such as public golf courses and athletic fields); fleet maintenance, building maintenance; new construction and land disturbance; roadway drainage system maintenance and storm water system maintenance.

(c.) Develop schedules for municipal maintenance activities described in paragraph (b) above.

(d.) Develop inspection procedures and schedules for long term structural controls.

7. Cooperation between interconnected municipal separate storm sewer systems is encouraged. The permittee should identify interconnections within the system. The permittee should attempt to work cooperatively with an interconnected municipality in instances of discharges impacting a system.

8. MS4s which discharge to coastal waters with public swimming beaches should consider these waters a priority in implementation of the storm water management program.

9. The permittee must evaluate physical conditions, site design, and best management practices to promote groundwater recharge and infiltration where feasible in the implementation of the control measures described above. During the implementation of the storm water management program, the permittee must address recharge and infiltration for the minimum control measures, as well as any reasons for electing not to implement recharge and infiltration. Loss of annual recharge to ground water should be minimized through the use of infiltration measures to the maximum extent practicable.

C. Public Drinking Water Supply Requirements

1. MS4s which discharge to public drinking water sources and their protected areas (Class A and B surface waters used for drinking water and wellhead protection areas) should consider these waters a priority in implementation of the storm water management program.

2. Discharges to public drinking water supply sources and their protection areas (wellhead protection areas, Class A and B waters) should provide pretreatment and spill control capabilities to the extent feasible.

3. Direct discharges to Class A waters and the sanitary radius to supply wells (defined in EnV-Ws 378.06, EnV-Ws 372.13) should be avoided to the extent feasible.

D. Program Evaluation

1. The permittee must annually evaluate the compliance of the storm water management program with the conditions of this permit.

2. The permittee must evaluate the appropriateness of the selected Best Management Practices in efforts towards achieving the defined Measurable Goals. The SWMP may be changed in accordance with the following provisions:

- (a.) Changes adding (but not subtracting or replacing) components, controls or requirements to the SWMP may be made at any time upon written notification to EPA.
- (b.) Changes replacing an ineffective or infeasible BMP specifically identified in the SWMP with an alternative BMP may be requested at any time. Unless denied, changes proposed in accordance with the criteria below shall be deemed approved and may be implemented 60 days from submittal of the request. If the request is denied, EPA will send a written explanation of the denial.
- (c.) Modification requests, must include the following information:
  - i. an analysis of why the BMP is ineffective or infeasible (including cost prohibitive)
  - ii. expectations on the effectiveness of the replacement BMP, and
  - iii. an analysis of why the replacement BMP is expected to achieve the goals of the BMP to be replaced.
  - iv. Change requests or notifications must be in writing and signed in accordance with the signatory requirements of Part VI.

3. EPA or NHDES may require changes to the SWMP as needed to:

- (a.) Address impacts on receiving water quality caused or contributed to by discharges from the MS4;
- (b.) To include more stringent requirements necessary to comply with new Federal statutory or regulatory requirement; or
- (c.) To include such other conditions deemed necessary to comply with the goals and requirements of the CWA.
- (d.) Any changes requested by EPA or NHDES will be in writing and will set forth the schedule for the permittee to develop the changes and offer the opportunity to propose alternative program changes to meet the objective of the requested modification.

E. Record Keeping

- 1. All records required by this permit must be kept for a period of at least five years. Records include information used in the development of the storm water management program, any monitoring, copies of reports, and all data used in the development of the notice of intent.
- 2. Records need to be submitted only when specifically requested by the permitting authority.
- 3. The permittee must make the records relating to this permit available to the public, including the storm water management program. The public may view the records during normal business hours. The permittee may charge a reasonable fee for copying requests.

F. Reporting

- 1. The permittee must submit an annual report. The initial report is due one year from the effective date of this permit and annually thereafter. The reports should contain information regarding activities of the previous calendar year. Reports must be submitted to EPA at the following address:

United States Environmental Protection Agency  
Water Technical Unit  
P.O. Box 8127  
Boston, MA 02114



Municipalities located in the State of New Hampshire, must also submit reports to the New Hampshire Department of Environmental Services at the following address:

New Hampshire Department of Environmental Services  
Water Division  
Wastewater Engineering Bureau  
P.O. Box 95  
Concord, New Hampshire 03302-0095

2. The following information must be contained in the annual report:

- (a) A self assessment review of compliance with the permit conditions.
- (b) An assessment of the appropriateness of the selected BMPs.
- (c) An assessment of the progress towards achieving the measurable goals.
- (d) A summary of results of any information that has been collected and analyzed. This includes any type of data.
- (e) A discussion of activities for the next reporting cycle.
- (f) A discussion of any changes in identified BMPs or measurable goals.
- (g) Reference any reliance on another entity for achieving any measurable goal.

#### **PART IV**

##### **NON-TRADITIONAL SMALL MS4 -STORM WATER MANAGEMENT PROGRAM**

(This covers federal, county, or state owned small MS4s located in any of the areas described in Part I.A. of this permit)

#### **A. Storm Water Management Program**

The permittee must develop, implement and enforce a program to reduce the discharge of pollutants from the MS4 to the maximum extent practicable; protect water quality, and satisfy the water quality requirements of the Clean Water Act and state water quality standards.

1. The permittee must develop a storm water management program implementing the minimum measures described in Paragraph IV.B.
2. All elements of the storm water management program must be implemented by the expiration date of this permit.
3. Implementation of one or more of the minimum measures may be shared with another entity, or the entity may fully implement the measure. When another entity fully implements a minimum measure for the permittee, the following applies:
  - (a.) the other entity, in fact, implements the control measure,
  - (b.) the particular control measure, or component of that measure is at least as stringent as the corresponding permit requirement.
  - (c.) The other entity agrees to implement the control measure on the permittee behalf. A legally binding written acceptance of this obligation is expected. This obligation must be maintained as part of the storm water management program. If the other entity agrees to report on the minimum measure, the permittee must supply the other entity with the reporting requirements contained in this permit under Part IV.E.
  - (d) The permittee remains responsible for permit compliance and implementation of the minimum measure if the other entity fails to do it.
4. For each minimum measure, the permittee must:
  - (a.) identify the person(s) or department responsible for the measure;
  - (b.) identify Best Management Practices (BMPs) for the measure;
  - (c.) identify measurable goals for the BMP. The permittee may also identify an overall goal for the measure. Time lines and milestones for implementation of BMPs should be identified.
5. The following EPA websites may be used in the development of BMPs and measurable goals. EPA's BMP menu: <http://www.epa.gov/npdes/menuofbmps/menu.htm> EPA's guidance on measurable goals: <http://www.epa.gov/npdes/stormwater/measurablegoals/index.htm>

#### **B. Minimum Control Measures**

1.. **Public education and outreach.** The permittee must implement a public education program to distribute educational material to the community. For the purposes of this permit, a community consists of the people who use the facility. For example, at a university it would be the faculty, other staff, students, and visitors. The public education program must provide information concerning the impact of storm water discharges on water bodies. It must address steps and/or activities that the community can take to reduce the pollutants in storm water runoff.

The following should be included in education and outreach efforts:

- (a.) information regarding activities that occur at the facility, including illegal dumping into storm drains.
- (b.) activities may be coordinated with local groups (i.e. watershed associations, or schools).



- (c.) materials for outreach/education may include, but are not limited to, pamphlets; fact sheets; brochures; public service announcements; storm drain stenciling and newspaper advertisements.
- (d.) encourage cooperative efforts with neighboring municipalities, watershed associations and others.

2. Public Involvement and participation. All public involvement activities must comply with state public notice requirement. In Massachusetts the public notice requirements are at MGL Chapter 39, Section 23B. In New Hampshire, the public notice requirements are at RSA 91A.

- (a.) The permittee must provide opportunity for the public to participate in the implementation and review of the storm water management program.

3. Illicit discharge detection and elimination. The permittee must develop, implement and enforce a program to detect and eliminate illicit discharges. An illicit discharge is any discharge to a municipal separate storm sewer that is not composed entirely of storm water. Exceptions are discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal sewer system), allowable non-storm water discharges described at Part I.F. and discharges resulting from fire fighting activities.

- (a.) If not already existing, the permittee must develop a storm sewer system map. At a minimum, the map must show the location of all outfalls and the names of all waters that receive discharges from those outfalls. Additional elements may be included on the map, such as, location of catch basins, location of manholes, and location of pipes within the system. Initial mapping should be based on all existing information available to the permittee including facility records, city records, and drainage maps. Field surveys may be necessary to verify existing records and locate all outfalls.

- (b.) To the extent allowable under state law, the permittee must effectively prohibit, through regulatory mechanisms available to the permittee, non storm water discharges into the system and implement appropriate enforcement procedures and actions. If a regulatory mechanism does not exist, development and adoption of such a mechanism must be included as part of the storm water management program. The permittee should evaluate existing procedures, policies, and authorities pertaining to connections to its separate storm sewer system. These may be used to assist in the development of the required regulatory mechanism.

If an illicit discharger fails to comply with procedures or policies established at the facility, the permittee may seek assistance from EPA or the state agency in enforcing this provision of the permit.

- (c.) The permittee must develop and implement a plan to detect and address non -storm water discharges, including illegal dumping, into the system.

The illicit discharge plan must contain the following elements:

- i. Procedures to identify priority areas. This includes areas suspected of having illicit discharges, for example: older areas of the city, areas of high public complaints and areas of high recreational value or high environmental value such as beaches and drinking water sources.
- ii. Procedures for locating illicit discharges (i.e. visual screening of outfalls for dry weather discharges, dye or smoke testing).
- iii. Procedures for locating the source of the discharge and procedures for the removal of the source.
- iv. Procedures for documenting actions and evaluating the impact on the storm sewer system subsequent to the removal.

(d.) The permittee must inform users of system and the general public of hazards associated with illegal discharges and improper waste disposal.

(e.) The non-storm water discharges listed in Part I.F. must be addressed if they are identified as being significant contributors of pollutants to the MS4.

4. Construction site storm water runoff control. The permittee must develop, implement, and enforce a program to reduce pollutants in any storm water runoff to the MS4 from construction activities that result in a land disturbance of greater than or equal to one acre. The permittee must include disturbances less than one acre if part of a larger common plan.

The permittee does not need to apply its construction program provisions to projects that receive a waiver from EPA under the provisions of 40 CFR§122.26(b)(15)(i).

At a minimum, the program must include:

(a.) To the extent allowable under state law, a regulatory mechanism to require sediment and erosion control at construction sites. If such a mechanism does not exist, development and adoption of a mechanism must be part of the program. The permittee should evaluate existing procedures, policies, and authorities pertaining to activities occurring on its property, these may be used to assist in the development of the required regulatory mechanism. If attempts to enforce this part of their program are ineffective, the permittee may seek assistance from EPA or the state agency for enforcement of this provision.

(b.) Sanctions to ensure compliance with the program. To the extent allowable under state law sanctions may include both monetary or non-monetary penalties.

(c.) Requirements for construction site operators to implement a sediment and erosion control program which includes best management practices that are appropriate for the conditions at the construction site. The overall goal of a sediment and erosion control plan is to retain sediment on site, to the extent practicable. A sediment and erosion control plan should, at a minimum, include provisions to address maintenance and inspection of BMPs, and long and short term stabilization practices.

(d.) Require control of wastes, including but not limited to, discarded building materials, concrete truck wash out, chemicals, litter, and sanitary wastes.

(e.) Procedures for site plan review including procedures which incorporate consideration of potential water quality impacts. The site plan review should include procedures for preconstruction review.

(f.) Procedures for receipt and consideration of information submitted by the public.

(g.) Procedures for inspections and enforcement of control measures at construction sites.

5. Post construction storm water management in new development and redevelopment.

The permittee must develop, implement and enforce a program to address storm water runoff from new development and redevelopment projects that disturb greater than one acre and discharge into the MS4.

The program must include projects less than one acre if the project is part of a larger common plan of development.



The post construction program must include:

(a.) To the extent allowable under state law, a regulatory mechanism to address post construction runoff from new development and redevelopment. If such a mechanism does not exist, development and adoption of a mechanism must be part of the program. The permittee should evaluate existing procedures and policies concerning activities occurring on its property. These may be used to assist in development of the required regulatory mechanism. If attempts to enforce this provision of the program are ineffective, the permittee may seek assistance from EPA or the state agency in enforcing this provision.

(b.) Procedures to ensure adequate long term operation and maintenance of best management practices.

(c.) Procedure to ensure that any controls that are put in place will prevent or minimize impacts to water quality.

6. Pollution prevention and good housekeeping in community/facility operations.

The permittee must

(a.) Develop and implement a program with a goal of preventing and/or reducing pollutant runoff from community/facility operations. The program must include an employee training component.

(b.) Include, at a minimum, maintenance activities for the following : parks and open space; fleet maintenance, building maintenance; new construction and land disturbance; road way drainage system maintenance, and storm water system maintenance.

(c.) Develop schedules for maintenance activities described in paragraph (b) above.

(d.) Develop inspection procedures and schedules for long term structural controls.

7. Cooperation with interconnected municipal separate storm sewer systems is encouraged. The permittee should identify interconnections within the system. These interconnections include both those leaving the system and those entering the system. The permittee should attempt to work cooperatively with an interconnected municipality in instances of discharges impacting either system.

8. MS4s which discharge to coastal waters with public swimming beaches should consider these waters a priority in implementation of the storm water management program.

9. The permittee should consider opportunities for ground water recharge and infiltration in implementation of the control measures described above.

The permittee must evaluate physical conditions, site design, and best management practices to promote groundwater recharge and infiltration where feasible in the implementation of the control measures described above. During the implementation of the storm water management program, the permittee must address recharge and infiltration for the minimum control measures as well as any reasons for electing not to implement recharge and infiltration. Loss of annual recharge to ground water should be minimized through the use of infiltration measures to the maximum extent practicable.

**Massachusetts Only:** Permittee in areas identified as "high" or "medium" in the most recent Massachusetts Water Resources Commission's *Stressed Basins in Massachusetts* report in effect at the time the permittee submits a Notice of Intent and accompanying storm water management program, must minimize the loss of annual recharge to ground water from new development and redevelopment, including but not limited to drainage improvements done in conjunction with road improvements, street drain improvement projects and flood mitigation projects, consistent with Standard 3 of the Storm Water Management Policy in areas both within and outside of the jurisdiction of the Massachusetts Wetlands Protection Act.

(See [http://www.state.ma.us/dem/programs/intbasin/stressed\\_basin](http://www.state.ma.us/dem/programs/intbasin/stressed_basin))

C. Public Drinking Water Supply Requirements

1. MS4s which discharge to public drinking water sources and their protection areas (Class A and B surface waters used for drinking water and wellhead protection areas) should consider these waters a priority in implementation of the storm water management program.
2. Discharges to public drinking water supply sources and their protection areas (wellhead protection areas, Class A and Class B waters) should provide pretreatment and spill control capabilities to the extent feasible.
3. Direct discharges to Class A waters and the sanitary radius to public supply wells should be avoided the extent feasible.

D. Program Evaluation

1. The permittee must annually evaluate the compliance of the storm water management program with the conditions of this permit.
2. The permittee must evaluate the appropriateness of the selected Best Management Practices in efforts towards achieving the defined Measurable Goals. The SWMP may be changed in accordance with the following provisions:
  - (a.) Changes adding (but not subtracting or replacing) components, controls or requirements to the SWMP may be made at any time upon written notification to EPA and MA DEP.
  - (b.) Changes replacing an ineffective or infeasible BMP specifically identified in the SWMP with an alternative BMP may be requested in writing to EPA and MA DEP at any time. Unless denied, changes proposed in accordance with the criteria below shall be deemed approved and may be implemented 60 days from submittal of the request. If the request is denied, EPA or MA DEP, as applicable, will send you a written explanation of the denial.
  - (c.) Modification requests, must include the following information:
    - i. an analysis of why the BMP is ineffective or infeasible (including cost prohibitive)
    - ii. expectations on the effectiveness of the replacement BMP, and
    - iii. an analysis of why the replacement BMP is expected to achieve the goals of the BMP to be replaced.
    - iv. Change requests or notifications must be in writing and signed in accordance with the signatory requirements of Part VI.
3. EPA or the state agency may require changes to the SWMP as needed to:
  - (a.) Address impacts on receiving water quality caused or contributed to by discharges from the MS4,
  - (b.) To include more stringent requirements necessary to comply with a new Federal statutory or regulatory requirement; or
  - (c.) To include such other conditions deemed necessary to comply with the goals and requirements of the CWA.
  - (d.) Any changes requested by EPA or MA DEP/ NH DES will be in writing and will set forth the time schedule for the permittee to develop the changes and offer the opportunity to propose alternative program changes to meet the objective of the requested modification.



E. Record Keeping

1. All records required by this permit must be kept for a period of five years. Records include information used in the development of the storm water management program, any monitoring, copies of reports, and all data used in the development of the notice of intent.

2. Records need to be submitted only when specifically requested by the permitting authority.

3. The permittee must make the records relating to this permit available to the public, including the storm water management program. The public may view the records during normal business hours. The permittee may charge a reasonable fee for copying requests.

F. Reporting

1. The permittee must submit an annual report. The initial report is due one year from the effective date of this permit and annually thereafter. The reports should contain information regarding activities of the previous calendar year. Reports should be submitted to EPA. At the following address:

United States Environmental Protection Agency  
Water Technical Unit  
P.O. Box 8127  
Boston, Massachusetts, 02114

Massachusetts MS4s must also submit reports to:

Massachusetts Department of Environmental Protection  
Division of Watershed Management  
627 Main Street  
Worcester, Massachusetts 01608

New Hampshire MS4s must submit reports to:

New Hampshire Department of Environmental Services  
Water Division  
Wastewater Engineering Bureau  
P.O. Box 95  
Concord, New Hampshire 03302-0095

2. The following information must be contained in the annual report:

(a) A self assessment review of compliance with the permit conditions

(b) An assessment of the appropriateness of the selected BMPs.

(c) An assessment of the progress towards achieving the measurable goals

(d) A summary of results of any information that has been collected and analyzed. This includes any type of data.

(e) A discussion of activities for the next reporting cycle.

(f) A discussion of any changes in identified BMPs or measurable goals.

(g) Reference any reliance on another entity for achieving any measurable goal.

G. Massachusetts State Permit Conditions

This permit is issued jointly by the U.S. Environmental Protection Agency and the Massachusetts Department of Environmental Protection under federal and state law, respectively. As such, all the terms and conditions of this permit are hereby incorporated into and constitute a discharge permit issued by the Commissioner of the MA DEP pursuant to M.G.L. Chap. 21, §43 and under regulations found at 314 CMR 3.00. Regulations found at 314 CMR 3.19 (Standard Permit Conditions) are incorporated into this permit by reference.

To the extent allowable by their respective laws and regulations, each agency shall have the independent right to enforce the terms and conditions of this permit. Any modification, suspension or revocation of this permit shall be effective only with respect to the agency taking such action, and shall not affect the validity or status of this permit as issued by the other agency, unless and until each agency has concurred in writing with such modification, suspension or revocation. In the event any portion of this permit is declared invalid, illegal or otherwise issued in violation of the state law such permit shall remain in force and effect under federal law as a NPDES permit issued by the U.S. Environmental Protection Agency. In the event this permit is declared invalid, illegal or otherwise issued in violation of federal law, this permit shall remain in full force and effect under state law as a permit issued by the Commonwealth of Massachusetts. Refer to Part IX for 401 Certification Requirements.



## **PART V**

### **TRANSPORTATION MS4 - STORM WATER MANAGEMENT PROGRAM**

(This part applies to state and county agencies who maintain roadways, highways and other thoroughfares in the state including but not limited to Massachusetts Highway Department and New Hampshire Department of Transportation)

#### **A. Storm Water Management Program**

The permittee must develop, implement and enforce a program to reduce the discharge of pollutants from the MS4 to the maximum extent practicable; protect water quality, and satisfy the water quality requirements of the Clean Water Act and state water quality standards

1. The permittee must develop a storm water management program implementing the minimum measures described in Paragraph V.B.
2. All elements of the storm water management program must be implemented by the expiration date of this permit.
3. Implementation of one or more of the minimum measures may be shared with another entity, or the entity may fully implement the measure. When another entity fully implements a minimum measure for the permittee, the following applies
  - (a.) the other entity, in fact, implements the control measure;
  - (b.) the particular control measure, or component of that measure is at least as stringent as the corresponding permit requirement.
  - (c.) The other entity agrees to implement the control measure on the permittee behalf. A legally binding written acceptance of this obligation is expected. This obligation must be maintained as part of the storm water management program. If the other entity agrees to report on the minimum measure, the permittee must supply the other entity with the reporting requirements contained in this permit under Paragraph V.E.
  - (d) The permittee remains responsible for permit compliance and implementation of the minimum measure if the other entity fails to do it.
4. For each minimum measure, the permittee must:
  - (a.) identify the person(s) or department responsible for the measure;
  - (b.) identify Best Management Practices (BMPs) for the measure;
  - (c.) identify measurable goals for each best management practice. The permittee may also identify an overall goal for each measure. Time lines and milestones for implementation of BMPs should be identified.
5. The following EPA websites may be used in the development of BMPs and measurable goals. EPA's BMP menu: <http://www.epa.gov/npdes/menuofbmps/menu.htm> EPA's guidance on Measurable goals: <http://www.epa.gov/npdes/stormwater/measurablegoals/index.htm>

#### **Minimum Control Measures**

1. **Public education and outreach.** The permittee must implement a public education program to distribute educational material to the community. For the purposes of this permit, a community consists of the people who use the facility. For a transportation agency, this would include employees, contractors, and general public. The public education program must provide information concerning the impact of storm water discharges on water bodies. It must address steps and/or activities that the community can take to reduce the pollutants in storm water runoff.